IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

ORDER

S.B. CRIMINAL REVISION PETITION NO. 1202/2003

SMT. SUNITA SHARMA Vs. SHRI NAVEEN KUMAR SHARMA

DATE: 03.04.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. N.K. Maloo for the petitioner
Mr. O.P. Sharma for the respondent.

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Petitioner Smt. Sunita Sharma is present in person before this Court but the respondent Naveen Kumar Sharma is not present despite specific directions issued by this Court on 07.03.2007.

The present criminal revision petition under Section 397 Cr.P.C. is preferred by the petitioner-wife against the judgment dated 25.04.2003 passed by the Family Court No.1, Jaipur in Case No. 103/2000, whereby the Family Court has dismissed the application of petitioner-wife moved under Section 125 Cr.P.C.

I have heard rival submissions of the respective parties and have also gone through the impugned judgment dated 25.04.2003.

The rejection of the application filed by the petitioner under Section 125 Cr.P.C. is on the ground that the petitioner has utterly failed to prove that she is not earning and depend upon her parents and on

technical grounds the Family Court has dismissed the application under Section 125 Cr.P.C.

In the considered view and the ratio decided by the Hon'ble Supreme Court, the application of the petitioner under Section 125 Cr.P.C. should be decided by the Family Court on its merit after giving opportunity of being heard to the parties.

Therefore, in the interest of justice, I deem it proper to quash and set-aside the impugned judgment dated 25.04.2003 passed by the Family Court No.1, Jaipur and remand the matter back to the Family Court for fresh adjudication after giving opportunity of being heard to the parties and shall pass fresh order on merit.

With the aforesaid observations, the revision petition stands disposed of.

As the matter is old, therefore, the parties are directed to remain present before the Family Court on 18.04.2007.

Record, if received, be sent back forthwith.

(K.S. RATHORE), J.

/KKC/